



C.M.A.No.760 of 2021

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.01.2025

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

C.M.A.No.760 of 2021

The Managing Director,
Tamil Nadu State Transport Corporation Kumbakonam Ltd.,
Railway Station New Road,
Kumbakonam,
Branch Office: Pulliyan Kottai Salai. ...Appellant

Vs.

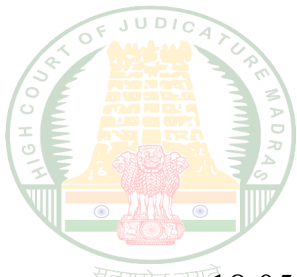
1.Minor Anni Joy Beatrice
[Rep.by her Father Natural Guardian
& Next Friend Ingarsal Rajanayagam]

2.Mr.Benny Anburaj

3.National Insurance Co. Ltd.,
Represented by its Manager,
No.13, Mudhaliyar Street,
Mailaduthurai.

4.S.Muthu
(Driver TNSTC
through Karaikkal-TNSTC Office) ...Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated



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18.05.2020 made in M.C.O.P.No.188 of 2019 on the file of the Motor Accident Claims Tribunal, District Court, Karaikkal.

For Appellant : Mr.D.Raghu
For Respondents : Mr.K.Varadhakamaraj [R1 & R2]
Mr.S.Arunkumar [R3]
R4 – Notice Dispensed with
vide Order dated 18.12.2024

JUDGMENT

The appellant/Transport Corporation has filed this appeal challenging the order passed in M.C.O.P.No.188 of 2019 on the file of Sub-Court, Karaikkal.

2. The 1st respondent is the minor daughter of the deceased. 2nd respondent is the husband of the deceased and owner of the Car insured with the 3rd respondent / Insurance Company.

3. On 18.08.2018, the deceased Arul Jothi Bagyarani, her daughter Eunice Anburani, her relative children namely Aneejo Patrics, Judith and Jerome were travelling in a Tata Indica car bearing Reg.No.TN-51-K-3291, which was driven by the 1st respondent Benny Anburaj from Aranthangi to Porayar. The 1st respondent, who is the husband of the



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deceased Aruljothi Bagyarani, drove the car from south to north on the western side of Karaikkal-Nagore main road. While the car was nearing Neravy ONGC office main gate, due to the sudden crossing of a cyclist, the 1st respondent swerved his car towards right side i.e., eastern side and to avoid hitting the cyclist, the 3rd respondent drove the TNSTC passenger bus bearing Reg.No.TN-68-N-0510 on the same road from opposite direction and dashed against each other. Due to the said accident, Aruljothi Bagyarani sustained severe head injuries and succumbed to the injuries. The 1st respondent and the 2nd respondent who are the legal heirs of the deceased have filed a petition claiming compensation of Rs.25,00,000/-.

4. After trial, the Tribunal awarded a sum of Rs.5,09,683/- as compensation to the claimants. Challenging the same, the State Transport Corporation has come up with the present appeal.

5. Heard the learned counsel for the appellant and the learned counsel appearing for the respondents 1 to 3.



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6. This Court has carefully considered the submissions made by the learned counsel on either side and perused the materials available on record.

7. The factum and manner of the accident is not disputed by the parties and therefore, this Court is not venturing into the same.

8. The learned counsel for the appellant submitted that for the same accident, the 1st respondent/minor claimant filed an appeal before this Court in C.M.A.No.1719 of 2020 for enhancement of compensation, and the Division Bench of this Court in C.M.A.Nos.1719 of 2020 and 324 of 2021, passed a common judgment dated 13.10.2022, fixing 70% negligence as against respondents 2 and 3 and 30% as against the appellant/Transport Corporation.

9. In view of the fact that already in respect of the very same accident, the Division Bench of this Court, in C.M.A.Nos.324 of 2021 and 1719 of 2020 had adjudicated the merits of the claim and fixed the negligence at 70% on the 2nd and 3rd respondents and 30% on the appellant/Transport Corporation, there arises no necessity for once again



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revisiting the said finding. Accordingly, the negligence as fixed by the Division Bench of this Court in C.M.A.No.1719 of 2020 stands confirmed.

10. One of the other claimant, who had survived the accident, but had been injured, had filed C.M.A.No.1719 of 2020 in which the Division Bench had modified the compensation awarded from Rs.5,09,683/- to Rs.8,07,333/-. The present claimant is also standing on the same footing, as she had also suffered similar injuries in the very same accident, this Court is inclined to award the sum of compensation, as has been awarded by the Division Bench in C.M.A.No.1719 of 2020. Accordingly, the compensation awarded by the Tribunal is modified from Rs.5,09,683/- to Rs.8,07,333/- following the decision of the Division Bench in C.M.A.No.1719 of 2020.

11. In the above circumstances, the compensation awarded by the Tribunal is modified as under :-



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<i>Heads</i>	<i>Amount awarded by the Tribunal (Rs.)</i>	<i>Modified Award Amount (Rs.)</i>
Permanent disability, pain and sufferings and loss of amenities	1,86,000/-	5,00,000/-
Medical Expenses	98,933/-	98,933/-
Pain and Sufferings	50,000/-	-
Transportation	23,400/-	23,400/-
Discomfort, inconvenience and loss of earnings to the parents during the period of hospitalisation	1,350/-	25,000/-
Extra Nourishment	10,000/-	10,000/-
Future Medical Expenses	15,000/-	25,000/-
Loss of marital prospects	50,000/-	50,000/-
Loss of convenience	25,000/-	25,000/-
Loss of advantages	50,000/-	50,000/-
Total	5,09,683/-	8,07,333/-

12. In fine, this appeal is allowed in part by modifying the negligence component and enhancing the compensation awarded by the Tribunal from Rs.5,09,683/- to Rs.8,07,333/- of which the appellant/Transport Corporation is directed to deposit its share of 30%



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and the 3rd respondent /Insurance Company is directed to deposit its share of 70% of the compensation along with interest at the rate of 7.5% p.a., from the date of claim petition till the date of deposit along with costs, within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the Tribunal is directed to transfer the share of the claimant to the credit of the bank account of the major claimant through RTGS within a period of two weeks thereafter. Insofar as the share of the minor is concerned, the Tribunal is directed to deposit the same in an interest bearing fixed deposit initially for a period of three years to be renewed periodically until the minor attains majority. Mr.Ingarsal Rajanayagam, viz., the guardian of the minor is permitted to withdraw the interest accrued on the deposit every quarter for utilising the same for the welfare of the minor. Upon the minor attaining majority, the said share can be withdrawn by the said claimant by filing proof of attaining majority before the Tribunal. No costs.

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NCC : Yes/No

Index : Yes/No

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Speaking Order : Yes/No

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M.DHANDAPANI, J.,

ssn

To:

- 1.The District Judge,
The Motor Accident Claims Tribunal,
Karaikkal.
2. The Section Officer,
V.R. Section, High Court, Madras.

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